

Fisher (J. W.)

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The Armstrong Case.*

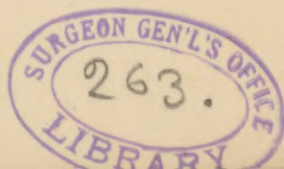
By THEO. W. FISHER, M. D., Boston, Mass.

THE legal inquiry into the mental condition of the widow of Gov. Armstrong was one of the most interesting events in the recent history of medical jurisprudence in this State. The formerly high social position of Mrs. Armstrong, her husband's fame as ex-Mayor of Boston, and ex-Governor of Massachusetts, in those elder days when high office implied high honor; the amount of money involved; the amount alienated from its natural line of descent into the hands of her business adviser; and the array of eminent legal talent on both sides, made the case memorable from many points of view.

The case was not a contest to set aside her will, as no will was ever executed, though the subject was often considered and several drafts made. It was a bill in equity, brought by A. S. Wheeler, Esq., Administrator, against Mrs. Armstrong's former business adviser and agent, to recover \$350,000 paid him, by her, during the last ten years of her life. The money was given secretly, her agent accounting each year for his collections of income and payments on her account, and receiving the balance as a present, with a receipt in full, dictated by Mrs. A. and signed by her. The case was tried in September and October, 1883, the trial lasting three weeks, before Justice Wm. Allen, of the Supreme Court; Wm. G. Russell, R. M. Morse and W. W. Vaughn, for the plaintiff, and E. R. Hoar, Wm. Gaston and Aug. Russ, for the defendant.

Gov. Armstrong died in 1850, childless, leaving an estate of \$150,000 to his widow, advising her in his will to keep up the style of living to which they had been

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accustomed. His estate was chiefly real estate in the heart of Boston, destined to increase largely and rapidly in value. In earlier life he had been a well-known book publisher, and having made money in certain copyrights of books, once to be found in every pious New England family, he sold out to his successors, Crocker and Brewster. They continued the sale of the "Church Psalmody," "Watt's Entire" and "Scott's Commentaries," and likewise prospered

In 1812, Gov. Armstrong married Miss Abigail Walker, sister of the late Dr. William Walker of Charlestown. It was said to have been a love match, she being but eighteen years of age. They lived frugally at the West End, boarding some of Mr. A's apprentices as the custom was. Messrs. Crocker and Brewster, then "two raw boys from the Cape" as she called them, now aged and respected citizens, were personally cared for by Mrs. A. Ten years after their marriage, in 1822, they spent a year traveling in Europe. Mrs. Armstrong was presented at the French and English Courts and made the acquaintance of Miss Hannah More, and other distinguished persons of that day. In 1845 and 1846, they repeated their visit to Europe, spending two years in travel. Mr. Armstrong added to his other titles of distinction that of Deacon of the Old South Church. He lived in good style, however; gave parties, kept a carriage and male servants up to his death.

Mrs. Armstrong is said to have been her husband's equal in every respect. She is described as of medium height, erect carriage, graceful deportment and some beauty; intelligent and vivacious in conversation, elegantly dressed and fond of style and display up to the time of her husband's death. Although greatly distressed by this event, she continued to maintain her social position upon a modified scale up to 1865, when she was seventy-one years old. Out of respect to her husband she preserved his desk, clothing and the furniture and pictures, of the room in which he died, intact, frequently exhibiting

them to callers. She continued to live until her own death, in her house on Beacon St., opposite the Common, the iron fence of which Gov. Armstrong had been largely instrumental in having built.

For a year or two after her husband's death, her business affairs had been managed by Mr. Crocker, Gov. Armstrong's former partner. She then took charge of them herself, soon after commencing a suit against Crocker and Brewster for payment of certain copyrights, which suit she lost. She collected her rents herself, employing Mr. J. who was her tenant, and of whom she bought her provisions, to collect in some cases of refusal to pay. About the year 1865, when she was seventy-one years old, a decided change occurred in her mode of life. She gave up her carriage but retained a horse, with which Mr. J., in his own carry-all, used to drive her about, on business or pleasure. He also used to call on her almost daily, and she grew to depend more and more on his advice and assistance. No bargain was made by which he was to be paid, but, as he testified, she promised to reward him liberally, sooner or later.

For some unexplained reason, from 1865 to 1871, when she was seventy-seven years old, she lived absolutely alone. With exceptions of a few weeks only, she had no servants, did all her own work of the most menial kind, such as building fires, washing her clothing as well as the front steps, attending her own door and cooking. She became negligent of her personal appearance, her dress was soiled and shabby, and as Mr. J. himself testified, she dressed more meanly than he would have wanted one of his servants to dress. This conduct in a lady of her antecedents, with an income at that time of about \$30,000 a year, struck her relatives and acquaintances as strange.

In 1867, when seventy-three years old, she fell in her back-yard while on a step-ladder picking grapes, and with difficulty dragged herself into the house, having sprained

her knee and otherwise injured herself. Mr. J. finding her in this condition, urged her to have a doctor, nurse and servants, but she refused, and he, with his wife and daughter, took care of her for a month. It should be here stated that Mrs. Armstrong had been for some years growing irritable, eccentric and hard to please. Her relatives had many of them been alienated by her suspicions of their motives in calling, and by her criticisms of their conduct. Her acquaintances had naturally stopped calling when she adopted her solitary mode of life. She had become suspicious and secretive as early as 1855 or 1856, when, as Mr. J. says, she first enjoined the most perfect secrecy in relation to all her affairs.

In consequence of this fall and her unprotected condition, Mr. J. went to Mr. H., her husband's old friend and business adviser, and asked him to go to her and tell her that he had heard of her fall through the neighbors, and to urge her to keep servants in future. She at once suspected Mr. J.'s agency in the matter, and after upbraiding him for telling one of her secrets, forbade him to visit her again. She transferred a large part of Mr. J.'s duties to a Mr. P., the carpenter who made repairs on her houses. This alienation from Mr. J. lasted three and one-half years, during which time no drives were taken, and no servants kept. Her life went on much as before in spite of a cataract which was removed in 1869 by Dr. Hasket Derby. She had double cataract, but one only was removed, resulting in good vision of one eye for near objects. She could not recognize persons across the room with her reading glasses on. During treatment her sister, Mrs. W., was in attendance with servants for several weeks.

In 1871 she became reconciled to Mr. J., and asked his advice about an income tax, which she thought was too large. She had paid him nothing up to this time and had kept her own accounts and written her own leases to save lawyers' fees; had invested her money, and kept her securities in her front chamber, of all which she

was very proud. About this time Mr. J. says she proposed to make a will, giving him about \$300,000 (or one-half of her property), as residuary legatee. In Nov. 1872, when seventy-eight years old, she was attacked with double pneumonia, and was very sick and delirious for several weeks. Her life was despaired of, and her sister, Mrs. W. came to stay with her, and secured proper attendance. Dr. Rob't Willard was called, and remained in regular attendance on her for the last ten years of her life. Dr. Willard says she was unconscious and incoherent, with lucid intervals for three weeks.

After this sickness Mrs. Armstrong remained very weak in her limbs, and as Mr. J. testified, didn't walk twenty rods in ten years. She occupied a room on the third story, in the rear, adjoining the bath room, and all the other rooms in the house were kept carefully locked. Two servants hired and paid by Mr. J. were her only attendants. Dr. Willard visited her at her own request about twice a month, and treated her for certain unimportant complaints. She took two quarts of the best French brandy per month, during most of the time. Her personal expenses were extremely small, less than a thousand dollars a year, out of an income of about \$40,000, the balance of which she annually paid over to Mr. J., unknown to anyone, and on a form of receipt dictated, as he says, by Mrs. Armstrong.

In the spring of 1878, and again in 1879, when eighty-five years old she proposed again to make a will, and was examined by Dr. Norton Folsom, unknown to her, with reference to her capacity. Mr. J. says she could not bring her mind to it, and it was never made. It was hard for her to make up her mind to give away anything, as Mr. J. testified. She had heirs she didn't like at all, and she suspected that most of them cared more for her money than they did for her, though most of them were either wealthy, or in good circumstances. She died in 1882, leaving her property, valued at three-fourths of a million, to be divided according to

law, among a large number of heirs, diminished by about \$ 350,000, which she had given Mr. J. in the manner described.

All the preceding statements were received from the testimony of the defendant who was called for the plaintiff. The plaintiff was obliged to rely largely on the rather infrequent visits of her relatives for evidence as to her mental condition, as she had few other callers, and was cared for solely by the defendant and servants in his employ. She had had three sisters, one brother and a large number of nephews and nieces, most of them persons of intelligence, and in good standing and comfortable circumstances. The pecuniary interest of each in the estate was rather small. They all visited her from time to time as politeness required, or circumstances would allow, many of them were prevented from calling oftener as they stated by her peculiar mode of life, and sometimes by their cool reception. Her general distrust of their motives was well-known, and they naturally left her to live out the kind of life she had chosen.

From the testimony of these relatives and other chance callers, or business acquaintances, we gather the following facts bearing on her mental condition. Most of the witnesses agree that at the age of seventy-one, in 1865, when she began to live alone, she was irritable, unreasonable, positive, arbitrary, peculiar, eccentric, suspicious, secretive, economical, penurious, out of society, and solitary. That this was a decided change in her character, although in some particulars her natural characteristics were greatly and even morbidly exaggerated.

She was evidently punctillious and exacting in her business relations, as was shown by her suit against Crocker and Brewster, soon after her husband's death, and by the evidence of Mr. J. and some other tenants. One probable reason of her living without servants was the fact that she could not get along with them or they with her, and she found it easier to do her own work, than adapt herself to ordinary domestic

conditions. The only letter she ever wrote Mr. J. was an appeal to come home from the country one summer and settle some difficulty with a servant, whose honesty she suspected. Like many old people she sometimes lost, or mislaid things which she may have supposed stolen. On one occasion \$ 500 and on another \$ 3000 were missing, both sums being afterwards accounted for.

Her falling out with the only person she trusted, the defendant, was a very characteristic occurrence. Because he told an old friend of her fall, she suspended confidential relations with him for three and one-half years, demanding back \$ 2,000 which she had previously lent him. Mr. J. says she was "peculiar and positive," and that he "didn't dare contradict her;" that he had had "a good many tussles" with her, that she was "hard to manage" and "had her own will after 1865." She had a misunderstanding with this person and a falling out with that one frequently. She carried this peculiarity down to the time of her death. She refused to have her own relatives in her sick chamber, and would not ask them to stay over night, and made no effort to entertain them in a proper manner when they called. There is some reason to believe that this was an inherited eccentricity, as Mr. W. testified that her brother had no intercourse with any member of his own or his wife's family for many years before his death, and that he left a million and a-half of dollars. In accordance with a similar morbid condition of mind, she rejected the advice and aid of her relatives during life, and forbid their presence at her death-bed.

Another decided change occurred in 1872, when she was seventy-eight years old, and was sick with double pneumonia. This very serious and prolonged sickness left her so weak, physically, that she was confined to the house, and much of the time to her chamber for the next ten years. The exact nature of this great and protracted disability was not explained. It was said her limbs

were weak, that she tottered and was lame on one side. She said that Mr. J. "couldn't get her over the stairs," and that if she "once got down she would never get back alive," and other expressions indicating great and special weakness, differing from that in ordinary old age. Mr. J. said there might have been partial paralysis, but no account of any shock is given.

Loss of memory began to be a prominent symptom after 1872. Even before the pneumonia, there had been the usual tendency of old people to dwell on the remote past. She repeated to her visitors over and over again the story of Gov. Armstrong's courtship, their travels in Europe, and his instrumentality in procuring the fence round the Common. This tendency increased after her sickness, and she would repeat the same story to the same visitor several times in the course of a short call. She also began to lose and misplace things more frequently. Keys were a source of annoyance to her. She felt called on to keep every door and chamber in the house locked, and carried about twenty keys, the servant said, which she frequently lost. She tied rags to them, to help her find them, or to designate them, but why this was necessary, when as it was testified her eyesight was good for near objects, and she could write and read the Transcript with ease, does not appear. She lost her watch, her glasses and other small things in the same way.

She, not very unnaturally forgot the names of some of her numerous heirs, but, what was a more serious indication of mental weakness, she could not remember long to whom she was talking after having been told. She would, repeatedly, in the same conversation, ask her relative her name, her mother's name, where she lived, how many children she had, and this on many different occasions. In other words, she could not retain in her mind, for an hour, information concerning a single one of her numerous heirs who was in her presence at the time.

On one occasion she forgot that she had just been

informed of her sister's sickness, and on another occasion, that her sister had been dead for some time. This loss of memory grew upon her, so that in the latter years of her life, she repeated the same story half a dozen times in the same visit to the same person.

Her mental weakness was also manifest in her tendency to dwell on the story of her engagement to, and affection for Gov. Armstrong. This she told to relatives and strangers alike, often taking painters and plumbers into her confidence in this respect, showing them Gov. Armstrong's last words: "Oh! how I love you!" written in a book. She said an old gentleman next door had thrown kisses at her and then called and offered himself in marriage. She was fond of advising young people about their love affairs, telling a young girl of sixteen, that her mother kept her too close; that she ought to be married; that it made no difference whom she married, as it was a disgrace to die an old maid. She asked the servants about their beaux, and advised one young man to marry young and another not to marry young, and showed on many occasions, a childish or rather a senile weakness concerning affairs of the heart.

Another side of her character exhibits a growing miserly disposition, relieved by isolated acts of benevolence or excessive generosity, which showed a loss of balance and self-control in business matters. She always showed some disposition to severity in her dealings with her tenants, and in negotiating a lease of real estate with Jordan and Marsh, held out strongly for an additional \$50, saying: "Where is my bread and butter coming from?" After 1865, this tendency increased. For some reason she did not pay Mr. J. for his services for years, and then paid him vastly more than his services were worth on any reasonable estimate. She lived without servants, eating the simplest food, her dress "rusty and dowdy," as Mr. J. says. She lectured the butcher boy and others on economy,

referring to the habits of the French in making the most of every scrap of food; said it was possible to live on a chop and one-half pint of milk a day; said she couldn't afford vegetables; wore an \$8.00 dress for eight years; admired a fifteen-cent apron; wore \$2.50 boots a long time; thought it extravagant for a young girl to wear a silk handkerchief over her shoulders; locked up a large amount of silver to avoid the income tax, and used broken kitchen crockery, two tined steel forks and knives without handles for years, and served her company in the same style, although there was plenty of silver and china in the house. She refused to have a fire in the grate in her room and dined in the bath-room and water-closet, where there was a register, for the sake of the warmth, and wore her under-clothing until it was so shabby and patched that her own servants refused to wear it when it was given to them.

Her chief expenses consisted in her two quarts of brandy per month, at \$7.00 a quart, and her doctor's bill. Her annual expenses were less than a thousand dollars. Another very significant condition of things was found at her death. In addition to a general state of dilapidation in her wardrobe, and a moth-eaten condition of the furniture, was found several bureau drawers full of rubbish of a peculiar kind. Her chair was habitually near this bureau, and in it she kept her keys and other articles of daily use. As Mr. W., and several others stated, these drawers were in a chaotic condition.

Among other things in them were found a score or more of rolls or packages as large as the fist, composed of layer upon layer of rags, tied in hard knots, and which must have required many hours to tie up. In the center of these bundles, which were opened with difficulty, were found the following articles: Copper cents, both old and new, and of no special value; silver coins and scrip, the whole amounting to \$400 or

\$500; a chip of wood, porcelain buttons, burnt matches, empty spools, shot, two gold watches, and one diamond earring, worth \$450. An explanation was attempted by the defense, of this state of things, that they were tied up in this way so she would know them, as she designated the keys by rags. What need there was of this when she could read fine print to the day of her death is not apparent. It was also explained that these apparently valueless articles had a value from association for her, but why mummify them in such a strange way, so that they could not be seen by herself? There was no danger of the trifling articles being stolen, if kept in some other way, while there was danger of the valuable ones being lost, by being tied up in rags. In fact a pair of mosaic ear-rings was found in the rubbish of the back-yard, after the drawers had been cleared. To my mind, there is no escape from the conclusion that they were secreted by a miserly dement, with absurd and insane cunning, either as a protection to the valuable articles, or as a purposeless hoarding of worthless and valuable articles indiscriminately.

The defense produced several servants, who corroborated much of the preceding testimony. One stated that she "knew what her relatives were after," and that "she didn't care anything about them;" that she kept twenty keys about her person, and often lost them, with her combs, brush, glasses, teeth, etc., that she had things tied up in her bureau drawers, so that she would know them by feeling, although she was able to read and write. Another testified that she said her heirs "only came to see how soon she was going to die, so as to get her money." Another that she said her "relatives would have had her in hospital, if it had not been for Mr. J.;" that she wore her clothes very thin, so that they were well patched and she would not have worn such herself; that she was a hard woman to manage; that she could thread a needle, but couldn't find things in her bureau drawer and that she often joked about getting

married with servants, painters and plumbers. They all testified generally to her intelligence and mental soundness, her ability to direct her household affairs, to her exacting disposition in certain directions and to her great liking for Mr. J.

Mr. P., the carpenter, who helped her during the period when Mr. J. was out of favor, made a draft of a will for her, in 1869, as she feared the operation for cataract might prove fatal. By this will Mr. P. was to receive \$50,000 and Mr. J. nothing. In 1879, she gave Mr. J. \$75.00 after he was burned out, and wished she could do more for him. She showed him a copy of a will in which she had done something handsome for Mr. J. as well as for himself. He read enough to know he was to be one of the executors. Said she meant to "keep the staff in her own hands," with reference to her property. What that implied is not clear, as she had already given Mr. J. nearly \$300,000.

Sundry tenants, workmen and business callers, testified to brief interviews with her during the last fifteen years of her life, in which she talked of old times and showed the fence and Gov. A.'s portrait and room furniture. Certain differences and disagreements were testified to. She complained of trespassers on her Charlestown estate; of the smallness of income from her brother's estate; of the division line between her house and the next; of the sewer tax; of the color of the paint on the fence, etc.

The defense relied largely on the opinion of Dr. Robert Willard who had not known her previous to her illness in 1872. After her recovery he saw her only four or five times up to 1875, but afterwards more frequently. Up to that time she did not show very great evidence of senility. She was coherent and agreeable in conversation, giving detailed accounts of her travels in Europe. She wanted to talk mostly of the remote past; of her childhood, her courtship, of the distinguished people she met in her first visit abroad; for example, Daniel O'Connell, Bishop Wilson, Wilberforce and Hannah More. She

was very proud of her descent from Edward Johnson, author of a rare book, entitled "Wonder-Working Providence," of which she had two copies.

Dr. Willard saw her read but never saw her write. The last two years of her life he always found her in her chamber. She sat in the bath-room in cold weather. Her mind was clear to within ten days of her death. She was reticent about her financial affairs, but spoke often of Mr. J. with affection. She was obstinate in small matters. She showed some loss of memory in her late years. There was a tendency to repeat what she had said within ten or fifteen minutes. The soundness of her judgment was not affected as far as he knew by this. She was much prostrated in warm weather, and died of disease of the heart.

On cross-examination he said he knew nothing of many of the peculiarities mentioned in the plaintiff's hypothetical question. He thought the condition of things in the bureau drawers peculiar. He had heard of her as a person of very economical habits. Feebleness of limbs was very noticeable the last two years. She was never in the street on foot after her illness in 1872. She might have gone out if she would have worn her long-sighted glasses, but refused in spite of Dr. Derby's advice. He made her an average of a visit a week for seven years. His object was professional and not friendly. She needed looking after and requested his visits. She never told him of her living without servants, or of her quarrel with Mr. J. She thought her sister-in-law, Mrs. W., disliked her because she was of a different religious denomination. She disliked one sister's husband, but was proud of her brother, Dr. W. Mrs. A. had the impression that Dr. Folsom was to examine her eyes. He didn't mean she should know that she was being tested as to her capacity to make a will. He gave Dr. Folsom little or no account of her, and didn't know himself of her gifts to Mr. J. He may not have mentioned her sickness. He intended to have Dr. F. unbiased. Mrs. A.

would have been indignant if she had known her sanity was being tested. He admitted that an examination under such limitations was less satisfactory than without them.

He said Dr. Folsom noticed that she repeated herself and mentioned it to him. Dr. Willard also testified that soundness of mind was not consistent with an extreme loss of memory, though a person might understand what was said, and answer correctly with considerable loss of memory. Senility, he said, is growing old with the slow and gradual failure of all the powers of body and mind. Senile dementia is a passive insanity accompanied by a varied train of symptoms, such as incoherence, untidiness, profound sleeplessness, failure of appetite and digestion; there may be hallucinations. It is easily controlled and patients are rarely violent. Decay of memory is not an indication of senile dementia, although it may accompany it. He denied that a far-sighted memory is mentioned in the books as evidence of senile dementia. A violent change in habits of life may be an evidence; penuriousness alone is not; senile dements easily yield to persuasion. Has read no treatise on senile dementia for some years.

Dr. Willard tried to explain the tying of the articles mentioned by different theories for each article, but, substantially admitted that it was a peculiar state of things, and he could conceive of no reasonable motive in some of the instances; thought it an evidence of oddity and that it would not alone satisfy him of a person's mental unsoundness.

Dr. Norton Folsom testified that he saw Mrs. Armstrong at Mr. J.'s request, in April, '78, March, '79 and May, '79. He took no notes and cannot separate in his mind what she said at the different visits. Went ostensibly to examine her eyes. She gave him an account of her early life and of her desire for a house on Beacon St. She showed him the distance at which she could read. Noticed a lapse of memory at first interview.

Returned to the beginning of a story more than once. Said herself, "you know an old lady's memory is not so good as a young one's." She described her pleasure in reviewing the past. She said she had a method of aiding her memory by putting things in certain places. Showed a comprehension of a defect of mind, which is evidence of soundness of mind. Loss of memory would not affect the reasoning powers. At interviews, in 1879, there was no change and no incoherence. She forgot and repeated as before. Thinks it would sometimes be better for a patient not to know the object of an examination.

The hypothetical question of the defense recounted generally her history down to 1872; stating that she wrote her own leases up to that date and signed all documents afterwards in a firm hand; that she could go down stairs till 1876, eight years before her death; that she read the Bible and French novels, and failed to recognize people because she wouldn't wear long-sighted glasses; that her housekeeping was orderly; that she liked Mr. J, and disliked her relatives; that her relatives neglected her; and that she gave directions to mechanics about work. The condition of the bureau drawers was not put in. The question was then asked of Dr. Folsom, would such a person be susceptible to influence by others, and the answer was "she would not."

On cross-examination he said, "a person to have capacity to make a will, should be able, by memory, or by such aid as they know how to summon, to recall the value of their property in general, the persons who were intitled to inherit it, and those to whom they were under obligations. They should have a normal preception of surrounding objects, be free from morbid emotion, have will of sufficient strength to carry out their purpose, and power of reasoning correctly. Admits that he didn't test her power of recalling her relatives, and didn't test her knowledge of her property. Can't recall details of her statements and knew nothing of her relations to Mr. J.,

or of her living alone. Constant recurrence to a certain round of topics would indicate senility. Defines senile dementia as a decay of mind in old age, with apathy, insensibility to influences from without, sluggishness of intellect, extreme loss of memory and weakness of will. Possibly unreasonable prejudices, or attachments, penuriousness, secrecy, hoarding, suspiciousness and negligence of dress may exist.

Dr. Fisher, the only expert called by the plaintiff, testified that senile dementia in its widest application, included any mental peculiarity in old age, out of the ordinary course, or any mental condition differing from the usual process of growing old. He assented to Spitzka's definition that senile dementia is a "progressive and primary deterioration of the mind connected with the period of involution, but exceeding the ordinary extent of such deterioration to a pathological degree." Any excess or irregularity in the usual process of involution would, he said, be properly classed as senile insanity, or dementia. He described senility as the common and ordinary process of growing old, wherein the senses, perceptions, memory, emotions and intellect, all gradually and uniformly become blunted and weakened, without unusual excitement, depression or alteration of character. This uniformity was often interrupted by accidental pathological changes in the brain, due to arterial disease, malnutrition, starvation of the cortex, atrophy, apoplexies and the like, which might result in senile insanity, or dementia.

He mentioned as among the mental characteristics of senile dementia, extreme loss of memory for recent events, unusual reversion of the mind to the events of early life to the exclusion of more recent interests, alteration of character, whereby the person from leading a strict and sober life becomes exhilarated, garrulous, childish, amorous, or dissipated, or depressed with disgust of life and fear of poverty; or he may become irritable, fault-finding, suspicious, secretive, penurious, showing hostility to friends and relatives, with undue

favoritism to comparative strangers. Any decided alteration of character would indicate some form or degree of senile dementia.

In answer to an hypothetical question put by plaintiff including all the evidences of loss of memory, change of character, irritability, secretiveness, parsimony, exacting disposition, undue prejudice against relatives, and undue favoritism to Mr. J., with the purposeless hoarding of trifles, in Mrs. Armstrong's case, he said he thought there was reasonable ground for belief in the existence of senile dementia in some form or degree in such a person. He thought there were evidences of alteration of character as early as '65, when she began to live alone and that decided evidence of weakness of mind existed after her sickness in 1872, when she was seventy-eight years old, increasing from that time gradually until her death. He thought the condition of articles tied up in rags suggestive of the motiveless secreting and hoarding of articles of more or less value by miserly demented persons. He thought a person like the one described, of exacting disposition and arbitrary and unreasonable temper, could be easily led by any person who fell in with her prejudices, and humored her weakness; that such a condition was often taken advantage of by designing persons to further their own purposes.

The above statement is written from memory, while the following *rèsumè* of Dr. Cowles' testimony is from brief notes taken at the trial. Dr. Cowles was the only expert called by the defense, except the family physician and Dr. Folsom, who had seen the patient. Dr. Cowles gave a definition and description of senile dementia, and answered the hypothetical question of the defense, which was put to Dr. Folsom, that such a condition of things would not necessarily indicate senile dementia to his mind; he thought the articles in her drawer would not contra-indicate sanity; neither would her living alone undoubtedly indicate

senile dementia; nor her quarrel with Mr. J., which was peculiar and not exactly like an ordinary misunderstanding. Economy is not a necessary evidence of insanity. A *sustained* quarrel is not consistent with the *irritability* of old age he thought, which involves the *easily* yieldings to the control of others.

On cross-examination he said the condition of the bureau drawer was of little account, because the rest of the house was in good order; still he could not quite understand the reason for her tying things up in that way. A person may have capacity to manage property, and yet have an unreasonable prejudice, and show undue favoritism, indicating some mental unsoundness. Change in mode of life, if taking place suddenly, *would* indicate unsoundness; a slow change would suggest the necessity for further investigation. Cheap mode of life would show a loss of desire for display, and return to simplicity of living; thought such table-service not consistent with her position. Her breach with Mr. J., was a sign of strength of mind *in her*.

Dr. Cowles was asked if he would always inform a patient that he was being examined as to his capacity to make a will. Dr. Fisher had testified that it was his invariable custom to do so, as it was necessary to inquire directly about heirs and property. Dr. Cowles said he might want to approach a case independently, and circumstances would determine whether he would inform a patient. He admitted that a person of strong will in certain directions, and of weak will in others, was more easily led by a person who humors this condition.

He agreed substantially with Dr. Fisher in his definitions of senile insanity. He described senility and said senile dementia is a further failure of mind and a greater loss of memory. Loss of perception impairs the judgment and understanding, and runs into disease of mind. Excessive impairment of mind becomes disease. Dr. Cowles dwelt more upon impairment of mind, though, admitting

that alteration of character might be evidence of a diseased mind.

The jury found for the plaintiff in fifteen out of sixteen exhibits. They found that, from 1873 to 1875, she was unduly influenced, but not of unsound mind, and that after 1875, for the last seven years of her life, she was both of unsound mind and unduly influenced. The result was a verdict against Mr. J. for \$350,000 and interest amounting to half a million dollars in all. Against this Mr. J. could put in a claim for services for a long period of years, which claim would probably be adjusted by a master appointed by the Court.

Whatever may be thought of the merits of this particular case, it is true that there is often room for reasonable doubt as to the existence of senile dementia. It does not always show itself in the extreme form of mental impairment, or mental excitement and delusion, but may exist as a somewhat chronic alteration of character dependent on senile changes in the brain, and the exact point where these changes become pathological cannot be definitely ascertained. In such a case, experts might fairly differ, especially when obliged to give an opinion on a hypothetical case in which the presentation of evidence is *emphasized*—on the one hand for the plaintiff, on the other for the defense. It is sometimes this emphasis, which is just enough to turn the scale in the expert's mind.

The same array of facts may almost always be explained in two different ways, and present one meaning to one set of witnesses and another to the other set. It is hard even for an expert, less biased than the other witnesses, to get far enough away from a case to take a broad and comprehensive view of it. He is led to keep the points which tell for the side on which he is called in the foreground of his mind, where they obtain undue prominence, insensibly as it were. And the hypothetical question still further restricts him to a partial view of the case.

Taking a retrospective view of the Armstrong case, I cannot resist the belief that she was in some degree insane, and being so, her business adviser, Mr. J., should have refrained from dealing with her in the secret manner prescribed by her, or, if he could justify it to his conscience, he ought not to have been and, perhaps, was not surprised that it led to legal investigation. A person who proposes in these days to leave large blocks of his property outside the natural line of descent and especially to put it in private hands, thereby losing the sympathy which is drawn out by public bequests, should make his intentions so public as to admit of no doubt, or expect to have them legally investigated after his death.

